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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

JOSE BANKS: BEY

In Propria Person

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)

Case No. 08 CR 688-1

Hon. Rebecca R. Pallmeyer

CORAM NON JUDICE

EVIDENCE: AFFIDAVIT OF FACT

Averment

FILED

DEC - 4 2012

DEC. 4, 2012

THOMAS G BRUTON

CLERK, U S DISTRICT COURT

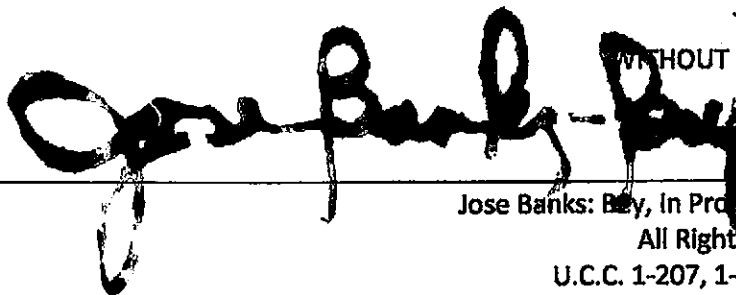
Direction: Clerk of the Court
United States District Court
Northern District of Illinois

This document is to be entered upon the record, docket number, 08-CR-688-1 as evidence:
It should NOT be construed as a Motion. This is an Affidavit of Fact and is therefore evidence that must
be rebutted.

Please mail as follows any correspondence to:

c/o Larry J. Graham
1601 N. Orchard
Apt. #104
Chicago, IL 60614

Thank you,
WITHOUT PREJUDICE



Jose Banks: Bey, In Propria Person

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U.C.C. 1-207, 1-308, 1-103

Rights Notice

AFFIDAVIT OF FACT
Averment of Jurisdiction
For the Record, To Be read Into the Record

Date: November 13, 2012
Case No. 08 CR 688

This is a Formal Request and Demand for U.S. District Court of Illinois to produce and record, the physical document "Delegation of Authority" as Proof of Jurisdiction, as required by law, per Article III. Section 1, of the United States Republic Constitution.

Notice to the Agent is Notice to the Principal. Notice to the Principal is Notice to the Agent.

JUDICIAL NOTICE: DECLARATION OF AFFIANT

There are no warrants, liens, levies, charges or actions against Jose Banks: Bey in any Jurisdiction of the United States.

It is a fact of record that the names Jose Banks, Jose Joseph Banks, etc. are all property belonging to the Vas Estate Express Trust # 10105905.

The property is religious property in a religious trust belonging to the Moorish Science Temple of America. The United States trustees, fiduciaries have no responsibilities appropriated outside the trust of the United States. Therefore, the United States is trespassing. Any claims, charges, warrants, seizures, abuses and actions brought against the religious property would be fraudulent and fictitious for no claim can be held against a holder in due course.

The property Jose Banks is also tax exempt under tax parcel #52-1147644 and not subject to pay taxes or any I.R.S. codes.

AFFIDAVIT OF TRUTH
(Exercise of Constitution – Secured Right)

I. Averment
FEDERAL JURISDICTION

It is further relevant to this Affidavit that any violation of my rights, freedom or property by the U.S. Federal Government or any agent thereof, would be an illegal and unlawful excess, clearly outside the limited boundaries of federal jurisdiction. My understanding is that the jurisdiction of the U.S. Federal Government is defined by Article I, Section 8, Clause 17 of the U.S. Constitution, and quoted as follows:

‘The Congress shall have the power...to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may by cession of particular states and the acceptance of Congress, become the seat of the government of the United States, (District of Columbia) and to exercise like over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards and other needful building; And to make all laws which shall be necessary and proper for carrying

with impunity. All the officers of the government, from the highest to lowest, are creatures of the law and are bound to obey it. *Boswell v. Otis*, 9 How. 336, 338 states that "a court enforces mere statutes and cannot act judiciously only ministerially, it cannot obtain jurisdiction through services of process, arrest, nor compelled appearance. *CAHA v. United States*, 152 U.S. 215 states "the laws of Congress in respect to those matters, do not extend into the territorial limits of the states, but only have force in the District of Columbia or other places in the exclusive jurisdiction of federal government. *Ex parte McCardie*, 7 Wall 506, 518, 19 L. Ed. 264 (1869) states "without jurisdiction a court cannot proceed at all in any cause. Jurisdiction is power to declare law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause."

II. POWER AND CONTRACTUAL OBLIGATIONS OF THE UNITED STATES AND STATE GOVERNMENT OFFICIALS

All United States government officials are hereby put on notice that I expect them to have recorded valid Oaths of Office in accordance with the U.S. Constitution, Article VI. "The Senators and Representatives before mentioned, and the members of the several state legislature, and all executive and judicial offices, both of the United States and of the several states, shall be bound by oath or affirmation to support this Constitution..."

I understand that by their Oaths of Office, all U.S. and state government officials are contractually bound by the U.S. Constitution as formulated by its framers, and not interpreted, subverted or corrupted by the U.S. Supreme Court or other courts.

According to the Ninth Amendment of the U.S. Constitution: "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." The Tenth Amendment to the U.S. Constitution states, in pertinent part: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Thus my understanding from these amendments is that the powers of all U.S. and state government officials are limited to those specifically granted by the U.S. Constitution.

I further understand that any laws, statutes, ordinances, regulations, rule and procedures contrary to the U.S. Constitution, as written by its framers, are null and void as expressed in the 16th Ed. American Jurisprudence, 2nd Ed., Section 177: "The general misconception is that any statute passed by legislature bearing the appearance of law constitutes the law of the land. The U.S. Constitution is the Supreme Law of the Land and any statute, to be valid, must be in Agreement. It is impossible for both the constitution and a law violating it to be valid; one must prevail." This is succinctly stated as follows:

"The general rule is that an unconstitutional statute though having the form and a name of a law, is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it. An unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed. Such a statute leaves the question that it purports to settle just as it would be had the statute not been enacted. Since an unconstitutional law is void, the general principals follow that it imposes no duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection, and justifies no acts performed under it. A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to

supersede any existing valid law. Indeed, insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby.

No one is bound to obey an unconstitutional law and no courts are bound to enforce it. A law which authorizes the taking of private property without compensation cannot be considered as due process of law in a free government. *Chicago, etc., R.R. Co. v. Chicago*, 166 U.S. 266 states, as expressed once again in the U.S. Constitution, Article VI: "This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding."

III. REVOCATION OF POWER OF ATTORNEY

I hereby waive, cancel, repudiate, and refuse to knowingly accept any alleged benefit or gratuity associated with any of the afore-mentioned licenses, numbers, or certificates. I do hereby revoke and rescind all powers of attorney, in fact or otherwise, signed by me or otherwise, with or without my consent or knowledge, as it pertains to any and all property, real or personal, corporeal or incorporeal, obtained in the past, present or future tense.

Take notice that I also revoke, cancel and make void ab initio all powers of attorney, in fact, in presumption, or otherwise, signed either by me or anyone else claiming to act on my behalf, with or without my consent, as such powers of attorney pertains to me or any property owned by me, but not limited to any and all grounds of constructive fraud, concealment, device and non-disclosure of pertinent facts.

IV. CONSTITUTIONAL LIMIT OF AUTHORITY

Amendment IX

"The enumeration in the constitution, of certain rights shall not be construed to deny or disparage others retained by the people..." "...where rights secured by the constitution were involved, there can be no rule-making or legislation, which would abrogate them," *Miranda v. Arizona*, 384 U.S. 436; *Bond v. United States*, 131 S. Ct. 2355, 180 L. Ed. 2d 269 (2011); *Abelman v. Bouth*, 21 Howard 506. In addition, "no judicial process whatever form it may assume can have any lawful authority outside of the limits of the jurisdiction of the courts by the judge whom it is issued, and an attempt to enforce it beyond these boundaries is nothing less than 'lawless violence.'" *Cooper v. Aaron*, 358 U.S. 1 (1958) states, "the Supreme Court has stated that no state legislature or executive, or judicial officer can war against the constitution without violating his undertaking to support it. Further, *In re: Sawyer*, 124 U.S. 200 states, "if a judge does not fully comply with the constitution then his/her orders are void. He/she is without jurisdiction and he/she has engaged in an act of Treason."

As an officer(s) of the court, you and your assignees are bound (or have taken a solemn oath: see Article VI) to uphold and support the constitution for the United States Republic. Refusal of the "Affidavit of Truth" is construed to deny my timely due-process and will be a colorable act to violate my secured exercise of a right. Such an act and imposition is a violation of your official oath of office. This can result in additional lawful remedy action filed against those violating officers of the court, under Title 18 and Title 42, in their official and private capacities. The law always gives a remedy for the people against color of law actions committed by those who violate their oaths of office colluding to abridge the rights secured for the natural beings and the citizens.

V. CLEAN HANDS

I respectfully, with good faith and with honor, by right to unhindered due-process, submit this Affidavit of Truth and Evidence. Any other proceeding herein are now ultra vires without legal or lawful authority, void ab initio and no force or effect on the rights, duties or outcome of the party herein demands release.

NOTICE: Rebuttal of these facts asserted in this Affidavit of Fact/Averment must be made point-for-point of each fact and must be placed upon the Record of the Clerk of the United States District Court, Northern District of Illinois, within thirty (30) days of the entry date of this document. Rebuttal must be made and signed under penalty of perjury. Government has thirty (30) days to answer under penalty of perjury by sworn Affidavit. Equitable estoppels, collateral estoppels apply if not answered in thirty (30) days point-for-point. Government can simply agree by tacit procuration—by simply remaining silent.

Without prejudice

I am

A handwritten signature in black ink, appearing to read "Jose Banks: Bey". The signature is stylized and cursive.

Jose Banks: Bey, In Propia Persona
Ex Relatione (JOSE BANKS)

All Rights Reserved: U.S.C. 1-207/1-308; U.C.C. 1-103, U.C.C. 3-505
Illinois Territory



CERTIFICATE OF SERVICE

This is to certify that the parties named below have been sent a copy of the AFFIDAVIT OF FACT/AVERMENT. This document was sent using the legal mail system, executed on November 29, 2012. Please return a signed, stamped and received copy to: Larry J. Graham, 1601 N. Orchard St. Apt. #104, Chicago, IL 60614 reflecting and informing that the enclosed Affidavit has been added to the docket.

Hon. Rebecca R. Pallmeyer
United States District Judge
Northern District of Illinois
219 S. Dearborn St.
Chicago, IL 60604

Allison Ray & Ian Williams
Clerk of the Court
United States District Court
Northern District of Illinois
Chicago, IL 60604

Sheri Mecklenburg
Assistant United States Attorney
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